

REMARKS

The purpose of the present final office action response and amendment is simply to cancel claim 50, to place the present patent application in better condition for appeal. The rejection of claim 50 under 35 USC 101 was maintained in the most recent final office action. So that just the prior art rejections under 35 USC 103 are the subject of an appeal, Applicant has cancelled claim 50. Applicant notes that the entry of this cancellation is proper, even after final rejection, as the Examiner does not have to perform any further search or consideration to enter the cancellation of claim 50. Applicant therefore requests the entry of claim 50, and further requests that the Examiner explicitly indicate in an advisory action that claim 50 has been cancelled.

The other remaining pending claims have not been amended herein, and stand rejected under 35 USC 103(a) over Connolly (6,169,873) alone or in combination with another reference. Applicant notes that there is in effect nothing new to say to convince the Examiner that his rejection of the pending claims over Connolly is in error. Applicant has already appealed the present patent application once, but the appeal was withdrawn by the Examiner to issue additional rejections under 35 USC 101. Applicant has overcome the rejections under 35 USC 101 (except for as to claim 50, which has been cancelled as noted above). However, the arguments as to the prior art rejections under 35 USC 103(a) have remained the same since before the appeal brief was filed, in the appeal brief, and in the previously filed non-final office action response. Applicant does not repeat these arguments herein, although Applicant requests that the Examiner consider them one last time and allow the case so that Applicant does not have to again appeal this matter.

To recap, then, Applicant requests that the Examiner enter the cancellation of claim 50, and expressly indicate this in an advisory action. Applicant will then likely appeal the present patent application based on the arguments as to the rejection of the still pending claims under 35 USC 103(a) over Connolly that were presented before the previously appeal, in the appeal

brief, and in the previously filed non-final office action response. Applicant, however, would like to give the Examiner one last chance to reconsider these arguments and allow the case, so that another appeal is unnecessary to secure allowance of the present patent application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael A. Dryja", written over a horizontal line.

Michael A. Dryja, Reg. No. 39,662
Attorney/Agent for Applicant(s)

May 17, 2009
Date

Law Offices of Michael Dryja
1474 N Cooper Rd #105-248
Gilbert, AZ 85233
tel: 425-427-5094
fax: 425-563-2098